

ILLINOIS POLLUTION CONTROL BOARD
November 21, 2013

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-58
)	(IEPA No. 137-12-AC)
LEOTA HUMM and BISHOP'S TRUCK)	(Administrative Citation)
SERVICE, INC.,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

For the reasons below, the Board accepts the proposed settlement and dismisses the respondents petition for review. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on June 18, 2012, against Leota Humm (Humm) and Bishop's Truck Service, Inc. (collectively respondents). The Agency alleged that on May 8, 2012, respondent allegedly violated Sections 21(p)(1), (3), (5), (7), and Section 55(k)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (3), (5), (7) (2012)) (415 ILCS 5/55(k)(1) (2012)) by open dumping of waste leading to litter, open burning, proliferation of disease vectors, deposition of construction or demolition debris, and allowing used tires to collect/retain water. The violations allegedly took place at respondent's facility located at 333 East Sloan Street in Harrisburg, Saline County. The property is commonly known to the agency as the "Harrisburg/Bishop Truck Service" site and is designated with Site Code No. 1650205091.

Respondents timely filed petitions to contest the administrative citation. The Board accepted the petitions on August 9, 2012, but directed Humm to file proof of service on the Agency. On September 20, 2012, the Board accepted Humm's petition. On November 8, 2013, the parties filed a "stipulation of settlement and dismissal of respondent's [*sic*] petition for administrative review." Under its terms, respondents admit that they violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) by causing or allowing open dumping resulting in litter, and agree to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at 2. Respondents also agree to the dismissal of their petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2012)), the Board therefore finds that respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)). Section (b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2010)) establishes a civil penalty of \$1,500 for this violation. The Board

accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that respondents pay a total civil penalty of \$1,500, the Board dismisses the alleged violation of Section 21(p)(3), (5), (7), and Section 55(k)(1) of the Act (415 ILCS 5/21(p)(3), (5), (7), and Section 55(k)(1) (2012)).

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that respondents violated section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2012)).
3. Respondent must pay a civil penalty of \$1,500 no later than December 23, 2013, which is the first business day after the 30th day following the date of this order. Respondents must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
4. Respondent must send the certified check or money order to:

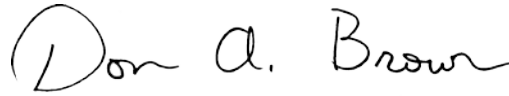
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
6. The Board dismisses the alleged violation of Section 21 of the Environmental Protection Act (415 ILCS 5/21 (2012)) and respondents' petition to contest the administrative citation.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2012); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The

Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Don A. Brown, Acting Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 21, 2013, by a vote of 4-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Acting Clerk
Illinois Pollution Control Board